

PATENT APPLICATION

ATTORNEY DOCKET NO. DRAK.001.00US

**IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE**

Inventor(s): Drake

Serial No.: 10/774,819

Examiner: Savage, M

Filing Date: 2/9/2004

Art Unit: 1797

Title: CONTINUOUS SELECTIVE ION EXCHANGE PROCESS AND APPARATUS

**COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450**

COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE;

**COMMENTS ON EXAMINER-INITIATED INTERVIEW SUMMARY; AND
EXAMINER INTERVIEW SUMMARY**

Applicant thanks the Examiner for taking time on March 4, 2008 to discuss, with Applicant's attorney, Sean O'Dowd, the Examiner's Statement of Reasons for Allowance and the Examiner-Initiated Interview Summary, which were both mailed on February 22, 2008.

During the March 4, 2008 interview, the Examiner indicated that Applicant could provide remarks to address the Examiner's Amendment/Comment by either reopening prosecution (e.g., by filing a Request for Continued Examination) or Applicant could submit comments in response to both the Examiner's Statement of Reasons for Allowance and the Examiner-Initiated Interview Summary.

Given the reality that reopening prosecution would add months to an already lengthy period of prosecution, Applicant has elected to provide the following comments relative to the Statement of Reasons for Allowance and Examiner's Amendment/Comment made in connection with the February 22, 2008 Examiner's Amendment:

Applicant agrees that the Kunz reference fails to teach or suggest the subject matter of claim 37, and Applicant agreed during a telephonic interview with the Examiner on February 15, 2008 to cancel claims 38, 105, and 107-110 without prejudice, to pursue in a future

application, in order to advance prosecution of the present application. Applicant, however, was unaware until Applicant received the Examiner-Initiated Interview Summary, which was mailed with the February 22, 2008 Notice of Allowability, that the Examiner viewed cancelled claims 38, 105, and 107 as including “limitations that were considered to be redundant to those recited in claim 37.” And Applicant was also unaware that the Examiner considered cancelled claims 108 and 109 as including “limitations that were considered new matter.” Applicant respectfully disagrees with these statements and offers the following for the record:

Claims 38, 105, and 107

The Examiner-Initiated Interview Summary indicates that cancelled claims 38, 105 and 107 include limitations that were considered redundant of those recited in claim 37. Applicant is uncertain about what the intended import of the term “redundant” is when comparing claims 38, 105, and 107 to claim 37, but Applicant provides the following remarks:

With respect to cancelled claim 38, it recites: “removing additional monovalent cations from the ion exchange media before removing the monovalent cations from the contaminated water.” These limitations are neither explicitly nor implicitly found in claim 37, nor is there any basis in the record to read these limitations into claim 37; thus the limitations of cancelled claim 38 can not properly be read into claim 37.

Referring next to cancelled claim 105, it recites: “controlling a ratio of the ion exchange media to the contaminated water so as to leave the divalent cations in the treated water.” Claim 37 does not, explicitly or implicitly, include these limitations, nor is there any support in the record to allege these limitations should be read into claim 37, and as a consequence, these limitations of claim 105 can not be properly read into claim 37.

And claim 107 recites removing monovalent cations so as to leave “multivalent cations.” Support for preferential removal of monovalent cations so as to leave multivalent cations is found throughout the specification, including original claim 7 and paragraph 2 of page 2 of the specification as originally filed.

Claim 108 and 109

The Examiner-Initiated Interview Summary indicates that cancelled claims 108 and 109 included limitations “that were considered new matter.” With respect to claim 108, it recites: “removing only a portion of the monovalent cations, so as to leave monovalent cations in the treated water.” Support for claim 108 is found in withdrawn claim 29, and the Specification as a whole makes clear that several embodiments of the claimed invention are directed to simply a reduction or partial removal (as opposed to absolute removal) of monovalent cations. For example, the Specification indicates that merely reducing the level of monovalent cations (e.g.,

to arrive at a SAR level below 15) is beneficial (See, e.g., page 2, lines 1-5 of the Original Specification). As another example, the Specification repeatedly indicates that a portion of particular ions (e.g., monovalent cations) can be removed in proportion to the concentration of those particular ions in solution. (See, e.g., page 3, lines 11-12; page 4, lines 10-22; page 9, lines 15-17 and page 10, lines 6-12 of the Original Specification). As a consequence, claim 108 is not directed to new matter.

Finally, claim 109 recites: “the separating occurs while the ion exchange media is partially loaded.” Support for claim 109 is found, at least, in original claims 6 and 7; thus claim 109 is not directed to new matter.

Dated: 3/10/2008

Sean R. O'Dowd
Attorney at Law
1035 Pearl Street
Suite 400
Boulder, CO 80302
Tel. 303-625-1013

Respectfully submitted,
NEUGEBOREN LAW FIRM

By: /Sean R. O'Dowd/
Sean R. O'Dowd
Reg. No. 53,403